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INTELLECTUAL PROPERTY LAW

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From: Elizabeth Alcamo	Phone: 650 833-7761	Return Fax: (650) 327-3231
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Fax Contains: 5 pages (including this sheet). If incomplete, call Elizabeth Alcamo [(650) 833 7761].		
Re: Serial No. 10/532,681		

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Message:

Dear Examiner Shen:

Enclosed please find proposed claim amendments for your review prior to our telephone interview scheduled for April 1, 2010 at 2pm EST, 11am PST.

During this interview, we would like to discuss the following points:

- 1) claim interpretation, particularly with regard to Claims 1, 13, 28, 30-32.
- 2) rejections under 35 U.S.C. §112, second paragraph, set forth in the Office Action mailed January 8, 2010 in view of item (1) above, and proposed amendments to overcome these rejections;
- 3) rejections under 35 U.S.C. §102, set forth in the Office Actions mailed February 11, 2009 and January 8, 2010 in view of item (1) above, and proposed amendments to overcome these rejections; and
- 4) rejections under 35 U.S.C. §112, first paragraph (written description and enablement), set forth in the Office Actions mailed February 11, 2009 and January 8, 2010 and amendments that may be made to the claims to overcome these rejections.

Sincerely,

Elizabeth Alcamo, Reg. No. 64,133 and Bret Field, Reg. No. 37,620

PROPOSED CLAIM AMENDMENTS

1. (Previously Presented) An isolated nucleic acid molecule encoding a fluorescent protein, wherein said protein has at least 85% identity with full length SEQ ID NO: 10.

2-4 (cancelled)

5. (original) A vector comprising the nucleic acid molecule according to claim 1.

6. (Previously Presented) An expression cassette comprising

- (a) a transcriptional initiation region that is functional in an expression host;
- (b) the nucleic acid molecule according to claim 1; and
- (c) a transcriptional termination region functional in said expression host.

7. (Previously Presented) A host cell or progeny thereof, comprising the expression cassette according to claim 6 as part of an extrachromosomal element or integrated into the genome of a host cell as a result of introduction of said expression cassette into said host cell.

8. (Previously Presented) A transgenic cell, or progeny thereof, comprising the nucleic acid molecule according to claim 1.

9. (withdrawn) A transgenic plant comprising the nucleic acid molecule according to claim 1.

10. (withdrawn) A transgenic animal comprising the nucleic acid molecule according to claim 1.

11. (withdrawn) A method for producing a fluorescent protein, said method comprising

- (a) providing an expression cassette according to claim 6
- (b) expressing the fluorescent protein from the nucleic acid molecule, and
- (c) isolating the protein substantially free of other proteins.

12. (cancelled)

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13. (Currently Amended) A nucleic acid molecule having a sequence that is substantially the same as, or identical to a nucleotide sequence of at least 300 contiguous nucleotides in length of the nucleic acid molecule according to claim 1.

14. (withdrawn) An isolated fluorescent protein that is encoded by the nucleic acid molecule according to claim 1.

15. (withdrawn) A fusion protein comprising the protein according to claim 14.

16. (withdrawn) An antibody specifically binding to the protein according to claim 14.

17. (Previously Presented) A kit comprising at least one nucleic acid molecule according to claim 1.

18-26. (cancelled)

27. (Canceled) ~~The nucleic acid molecule according to the claim 1 which encodes a fluorescent protein which has at least 85% identity with the amino acid sequence of SEQ ID NO: 40.~~

28. (Previously Presented) The nucleic acid molecule according to the claim 1 which encodes SEQ ID NO: 10.

29. (Previously Presented) An isolated nucleic acid that hybridizes under stringent conditions to the nucleic acid of claim 1, wherein said nucleic acid encodes a fluorescent protein.

30. (Previously Presented) The nucleic acid molecule according to claim 1, having a nucleotide sequence comprising SEQ ID NO: 9.

31. (Currently Amended) The nucleic acid molecule according to Claim 1, wherein said nucleic acid molecule encodes a fluorescent protein having at least 90% identity with full length SEQ ID NO: 10.

32. (Currently Amended) The nucleic acid molecule according to Claim 1, having a nucleotide sequence having at least 90% identity with full length SEQ ID NO:9.

33. (Previously Presented) The nucleic acid molecule according to Claim 1, wherein the protein comprises a fluorophore.